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HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Comments of the Human Rights Committee

COLOMBIA

1. The Committee considered the third periodic report of Colombia (CCPR/C/64/Add.3) at its 1136th to 1139th meetings, held on 2 and 3 April 1992, and adopted */ the following comments:

A. Introduction

2. The Committee expresses its appreciation for the State party's well-documented report, which was prepared in conformity with the Committee's guidelines, highlighting factors and difficulties that impede the implementation of the Covenant, and providing information not only about laws and regulations but also about actual practice. The fact that the new Constitution was not yet adopted at the time of the report's submission made it somewhat difficult for the Committee to acquaint itself with the current situation but the additional information supplied orally compensated for this to a large extent. The delegation endeavoured to answer all questions from the Committee and its members in an open and direct way admitting the existence of problems and negative facts or factors. The report and the additional information provided have enabled the Committee to obtain a comprehensive view of the human rights situation in Colombia.

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*/ At the 1147th meeting, held on 9 April 1992.

B. Positive aspects

3. The Committee notes with satisfaction the positive effects of the constitutional reform on the enforcement of the rights enshrined in the Covenant. That reform had been preceded by other reforms of great importance for the strengthening of human rights in Colombia, particularly the establishment in 1987 of the Office of the Presidential Adviser for the Defence, Protection and Promotion of Human Rights and the establishment of a National Human Rights Unit in the Directorate General of Criminal Investigation. In the same connection, the Committee notes the reorganization and strengthening of the special judicial functions of the Office of the Attorney-General, which have had beneficial consequences for the protection and preservation of the judiciary, as well as the creation of the Office of the Government Attorney for Human Rights (Ombudsman). Another positive aspect which is attributable mainly to the establishment of the Office of the Presidential Adviser for Reconciliation, Normalization and Rehabilitation and the institutionalization of the peace process, has been the success achieved to date in the ongoing reconciliation and normalization process encompassing insurgent guerrilla groups. However, the most important factors for the improvement of the human rights situation in Colombia seem to have been the introduction and establishment of participatory democracy, as well as a firm will to combat all forms of abuse of power, particularly violence by the police, the army and paramilitary units. Finally, the Committee expresses satisfaction that the approach taken by Colombia to the right to self-determination of peoples has been in line with the development of participatory democracy and that Colombia is making real efforts to achieve full equality for minority groups.

C. Factors and difficulties impeding the application of the Covenant

4. The Committee notes that the state of siege, which had been in force throughout the national territory since 1 and 2 May 1984, and which had impeded to a large extent the full application of the Covenant, was lifted as from 7 July 1991. However, all obstacles have not yet been removed. Peace has still not been achieved with all insurgent groups and organized drug-trafficking continues, with a considerably negative impact on the implementation of internationally recognized human rights. Also, paramilitary activities have not ceased entirely. These factors continue to restrain seriously citizens' enjoyment of their human rights.

D. Principal subjects of concern

5. The Committee expresses concern about the ongoing violence causing a rate of homicide, disappearances and torture which, although decreasing, is unacceptable. Of special concern to the Committee have been the murders of sectors of the population in so-called social cleaning operations ("limpieza social"). Moreover, the Committee is concerned about the phenomenon of impunity for police, security and military personnel. In that connection, the measures

that have been taken do not seem to be sufficient to guarantee that all members of the armed forces who abuse their power and violate citizens' rights will be brought to trial and punished. Military courts do not seem to be the most appropriate ones for the protection of citizens' rights in a context where the military itself has violated such rights. The persistence of paramilitary groups also causes concern. Furthermore, the Committee is of the opinion that full guarantees do not exist for adequate implementation of the provisions of article 4 of the Covenant regarding states of emergency. The Committee also notes with concern that the principle of equal pay for men and women has not yet been fully applied in Colombia. The child labour issue is also a matter that violates the Covenant.

E. Suggestions and recommendations

6. The Committee recommends that the State party should intensify its action against all violence resulting in human rights violations. It should eliminate impunity; strengthen safeguards for individuals vis-à-vis the armed forces; limit the competence of the military courts to internal issues of discipline and similar matters so that violations of citizens' rights will fall under the competence of ordinary courts of law; and disband all paramilitary groups. The Committee also urges the State party to deal more effectively with problems relating to child labour. Finally, the Committee calls for bringing emergency legislation into conformity with article 4 of the Covenant.

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Comments of the Human Rights Committee

BELGIUM

1. The Committee considered the second periodic report of Belgium (CCPR/C/57/Add.3) at its 1142th and 1143rd meetings, held on 7 April 1992, and adopted* the following comments:

A. Introduction

2. The Committee commends the State party on its excellent report which contains detailed information on law and practice relating to the implementation of the Covenant's provisions subsequent to the consideration of the initial report. The Committee appreciates the comprehensiveness of the report which is in conformity with the Committee's guidelines. In particular, the Committee is grateful for both the oral and written responses provided by the State party representative. The Committee also appreciates the high competence of the delegation and considers that the dialogue with the State party was fruitful and constructive.

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* At the 1148th meeting, held on 10 April 1992.

B. Positive aspects

3. The Committee notes with satisfaction the changes in law and in practice during the period under review, in particular, the several decisions of the Court of Cassation affirming the applicability of certain provisions of the Covenant; the law on economic reorientation prohibiting any discrimination based on sex; the law abolishing all discrimination between children born in and out of wedlock; the draft law permitting immediate communication between the accused and his lawyer; the bill proposing to abolish the death penalty; and the planned accession to the Second Optional Protocol to the Covenant.

C. Factors and difficulties impeding the application of the Covenant

4. The Committee notes some of the major difficulties experienced by Belgium; such as, the centrifugal character of Belgian federalism, the bipolar nature of the legal system, and the language differences among the population. The complexity of the Belgian legal framework seems to have impeded a direct reference to the Covenant to a certain extent.

D. Principal subjects of concern

5. Although noting the direct applicability of several provisions of the Covenant which form part of Belgian domestic law, the Committee is concerned about the difference between civil rights enjoyed by citizens and those enjoyed by aliens, which may lead to discrimination against aliens. Other areas of concern include the scope of interpretation given to article 6 of the Covenant; the adequacy of monitoring pre-trial detention as well as the impartiality of the authorities who examine those arrested; the adequacy of remedies for wrongful detention; the adequacy of information on freedom of expression especially in relation to television broadcasting; and arrangements as to freedom of assembly in open air.

E. Suggestions and Recommendations

6. The Committee recommends to the State party more adequately to reflect in internal administrative practice the provisions of the Covenant which are not reflected in the European Convention for the Protection of Human Rights and Fundamental Freedoms (e.g. arts. 25, 26 and 27); and to ensure that the laws regarding restrictions on freedom of expression and assembly are compatible with those provided for in the Covenant. The Committee also recommends that the State party further improve the effectiveness of the protection granted to minority rights at the communal level. The Committee further recommends that the State party reconsider its reservations so as to withdraw as many as possible.